



Part I:

EXECUTIVE SUMMARY AND RECOMMENDATIONS

B L A N K P A G E

EXECUTIVE SUMMARY OVERVIEW

PART I: SURFACE AND GROUND WATER QUALITY

- SURFACE WATER QUALITY -

Information about surface water quality throughout New Mexico is based on the results of the New Mexico Environment Department's (NMED) intensive surveys, water quality monitoring of projects under the State's Nonpoint Source Pollution Management Program, Total Maximum Daily Load surveys and studies, preliminary statewide studies of mercury in fish tissues, water quality monitoring conducted under the National Pollutant Discharge Elimination System (NPDES) program and review of physical and chemical data entered by various agencies into the United States Environmental Protection Agency's (EPA) database.

Conclusions concerning attainment of fishery uses are based on water quality analyses; where available, biological data were used to verify these results.

From a total of over 5,875 perennial stream miles, almost 3,080 assessed miles, or 52%, have some level of threat-

ened or impaired designated or attainable uses while 124,140 out of a total of 148,883 lake acres, or 83%, do not fully support designated uses. Of the river miles that are impaired, designated uses in 1,247.45 river miles were partially supported; in 1,427.7 river miles, pollution was such that one or more designated uses were not supported.

Of the lake acres impaired, designated uses were not supported in 1,960 acres. The remaining impaired acres still provided partial support for designated uses.

Reported sources of water quality impairment in New Mexico are diverse and include natural, lack of proper forest management, invasive riparian plants, agriculture, recreation, hydromodification and resource extraction. Causes of impairment include toxic metals, temperature, plant nutrients, bottom deposits and other causes. Over 91% of all water quality impairment identified in New Mexico's rivers is due to nonpoint

sources of water pollution.

All of the known lake water quality impairment is due to nonpoint source water pollution.

In 1994-1995, the State of New Mexico issued fish consumption advisories for 23 lakes and reservoirs and one river due to elevated mercury concentrations in fish. Twenty-four lakes were included on the 2000 CWA §303(d) list fish consumption advisories for mercury, even though the water quality standard for mercury was not exceeded in these lakes.

Estimates by the United States Forest Service (USFS) based on comparing the extent of hydric soils in the State to the extent of present wetlands show that New Mexico's wetlands, which currently total approximately 481,900 acres, have been reduced over 33% since the 1780s. Due to these historical trends, point and nonpoint pollution and drainage, all wetlands are considered threatened in New Mexico.

- GROUND WATER QUALITY -

Approximately 90% of the population of New Mexico depends on ground water for its drinking water. The water quality for the 81% of the population utilizing ground water sources from public water supplies is monitored routinely. Nearly one half of the total water used for all purposes in New Mexico is ground water. In many locations, ground water is the only available supply.

Ground Water

Contamination Inventories

NMED maintains an ongoing inventory of known ground water contamination cases in the State. At least 1,235 cases have been identified from 1927 through December 1999, with 188 public and 1,907 private water-supply wells impacted. Ground water contamination most frequently occurs in vulnerable aquifer areas where the water table is shallow.

Causes and Sources of

Ground Water Contamination

Approximately 13% of ground water contamination in the State has been caused by nonpoint sources, predomi-

nantly small household septic tanks or cesspools. Nonpoint source contamination may be caused by diffuse sources such as large numbers of small septic tanks spread over a subdivision, residual minerals from evapotranspiration, animal feedlot operations, areas disturbed by mineral exploration and/or storage of waste products, urban runoff or application of agricultural chemicals.

Point sources are discharges at specific identified locations such as surface impoundments, landfills, and injection wells. In New Mexico, accidental spills and leaking underground storage tanks account for almost half of all point source contamination events.

Public Drinking Water Systems

The 1996 reauthorization of the federal Safe Drinking Water Act (SDWA) mandated that EPA set new or revised standards for some naturally occurring ground water chemical constituents in New Mexico such as radon, radionuclides and arsenic. According to the 1996 amendments, EPA should have promulgated a standard for radon by December 2000, with a proposal by August

1999.

However, there is no drinking water standard for radon at the present time. Although the primary risk from radon is through breathing it in indoor air, present sampling data suggest that radon could occur in 84% of New Mexico's water supply wells. Annual treatment costs to remove radon from water supplies could be substantial, depending on the level at which EPA sets the standard. In the draft EPA regulation, states are encouraged to adopt a Multi Media Mitigation (MMM) program. A MMM program would require the State Indoor Radon and Drinking Water programs to work together to decrease radon levels in homes. As a result, States with MMM programs for indoor air will only be required to meet a less stringent alternate MCL for drinking water.

EPA promulgated a revised regulation for arsenic in January 2000 setting a national maximum contaminant level of 10 µg/L. Like radon, the costs to remove arsenic will be substantial.

PART 2 : WATER QUALITY MANAGEMENT

– THE STATE ROLE IN WATER QUALITY MANAGEMENT –

Water quality management in New Mexico has both state and federal aspects. The State establishes standards for state and interstate water bodies and for ground water, assesses the quality of surface and ground waters, adopts regulations, and takes actions to protect and maintain surface and ground water quality. The State also coordinates with EPA in implementing the federal Clean Water Act (CWA) [33 U.S.C. 1288] and other federal acts which contain water quality protection provisions.

At the state level, the New Mexico Water Quality Control Commission (WQCC), under the authority of the New Mexico Water Quality Act, has adopted the basic framework for water quality management. Major components of this framework include surface and ground water quality standards, regulations, and the State's Nonpoint Source Management Program.

Programs for

Surface Water Pollution Control

New Mexico uses a variety of mechanisms including State, federal, and/or local components to protect its surface waters from becoming polluted. The principal mechanism used to protect waters from municipal and non-municipal point source discharges is the federal NPDES program. While NPDES permits for discharges in New Mexico are issued and enforced by EPA, the State plays a significant role in this permit program, by providing water quality certification for these permits as well as inspecting the facilities for compliance with their permits. NMED administers and enforces Surface Water Protection and Utility Operator Certification regulations for the WQCC.

The State Nonpoint Source Water Pollution Management Program addresses nonpoint source surface water pollution.

NMED is the lead agency for this program, which utilizes a variety of State, local and federal agency programs to achieve implementation of Best Management Practices to prevent and abate nonpoint source pollution. As part of this program, the State assures that water quality standards are maintained and wetlands are protected through the water quality certification process for CWA § 404 dredge-and-fill permits issued by the United States Army Corps of Engineers.

Programs for

Ground Water Pollution Control

Programs established under the New Mexico Water Quality Act, Oil and Gas Act, Hazardous Waste Act, Ground Water Protection Act, Solid Waste Act, Emergency Management Act, Voluntary Remediation Act and Environmental Improvement Act are designed to maintain ground water quality.

Water Quality Act programs include a ground water discharge permit program that protects ground water quality through the issuance of ground water pollution prevention permits; an abatement program that includes requirements for the assessment and abatement of releases that cause or threaten to cause exceedances of ground water quality standards; and a spill response program that includes provisions for the reporting and cleanup of spills that impact ground water quality. Regulations under the Oil and Gas Act "regulate the disposition of water produced or used in connection with the drilling for or producing of oil and gas....". The Oil and Gas Act also regulates disposition of non-domestic and non-hazardous solid waste produced by the oil and gas industry. Hazardous Waste Act regulations include requirements for preventing and cleaning up releases of hazardous waste and releases from underground storage tanks. The

Ground Water Protection Act provides a state cleanup fund for corrective action at sites contaminated by leaking underground storage tanks. The Emergency Management Act provides for the Hazardous Materials Emergency Response Plan, which gives NMED the responsibility for providing necessary information to first responders at hazardous materials and radiological incidents. Under the authority of the Environmental Improvement Act, regulations have been adopted that cover liquid waste disposal, septage and public water supply. The goal of the Voluntary Remediation Act is to facilitate the expeditious, voluntary cleanup of contaminated properties, thereby promoting their redevelopment and productive use.

Several federal programs contribute to ground water quality protection in New Mexico. The federal Superfund program also impacts the state, and NMED's Superfund Oversight Section identifies, investigates, and oversees remediation of abandoned hazardous waste sites under a Superfund Memorandum of Agreement with EPA.

The New Mexico State Legislature has given extensive authority to counties and municipalities for land use and protection of public health and safety, areas with substantial implications for ground water quality protection. Most have not taken full advantage of this authority. The present zoning authority of the counties can be coupled with a wellhead protection program to effectively protect ground water drinking water sources in partnership with the State Environment Department and EPA. Many small systems, which rely on surface water for their drinking water, may establish a watershed protection program for their surface water sources.

– PROGRAMS FOR WATER QUALITY ASSESSMENT –

Surface Water Quality Assessments

The State uses a wide variety of methods for assessment of its surface water quality. Second-party data including discharger's reports, published literature, data stored in EPA's database as well as data generated by the United States Geological Survey (USGS) are routinely reviewed. NMED generates large amounts of data through intensive surveys, assessment of citizen complaints, special studies aimed at areas of special concern (e.g., mercury concentration in fish), volunteer monitoring programs, short and

long-term nonpoint source pollution monitoring and effluent monitoring.

Ground Water Monitoring and Data Management

Ground water quality monitoring is carried out under many of the State ground water quality protection and remediation programs and by the USGS. The scope and variety of ground water quality investigations in New Mexico has created the need for computerized data management. NMED is committed to agency-wide improvements in information management in order to reduce the

burden on staff, the regulated community and other stakeholders. Through an *On-eStop* grant from EPA, the initial steps of this process have been made to centralize environmental data. NMED is beginning the process that will result in the purchase and modification of an integrated environmental database system. Incorporating groundwater monitoring data as well as the other core needs of NMED, this system will result in improvements in the way that the public obtains environmental data from the agency.

– PROGRAM EVALUATION –

Surface Water

Various qualitative and quantitative measures have been used by EPA, the states, and others to measure the effectiveness of water quality management programs. The cost of administering these programs continues to grow at a steady rate. The primary function of these programs is to maintain suitable water quality necessary to protect existing, designated and attainable uses. New Mexico was one of the first states to have all of its municipalities achieve secondary treatment capability. In general, "major" dischargers normally

do a good job of meeting permit requirements while "minor" dischargers continue to have noncompliance problems that are not being completely addressed due to EPA enforcement policies.

Nonpoint source water pollution in New Mexico is receiving ever more attention. Significant efforts have been initiated by the United States Forest Service (USFS) in cooperation with NMED in a large number of different settings, to reduce and eliminate such pollution in a number of the State's highest quality waters. These efforts have led in several

cases to the elimination of longstanding nonpoint source problems.

Ground Water

Measures of ground water protection programs effectiveness are documented through site-specific monitoring at permitted facilities and facilities that are abating ground water contamination. Although there is no overall index to determine the rate at which ground waters are polluted or remediated, state and federal programs that ensure the quality of the state's ground water have been successful in both ground water quality protection and clean-up efforts.

RECOMMENDATIONS FOR GROUND AND SURFACE WATER QUALITY MANAGEMENT

The following recommendations are divided into two groups: first, recommendations are made to the United States Congress on desirable legislation and necessary funding of water quality management; and secondly, recommendations are made to the EPA on administration of the CWA and other federal acts which contain water quality protection provisions.

RECOMMENDATIONS TO THE CONGRESS OF THE UNITED STATES

N o n p o i n t S o u r c e C o n t r o l s

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| 1. New Mexico's Nonpoint Source Control Program was first fully approved by EPA in September of 1989. Conse- | quently, the State has been implementing the program for only 10 years. We believe that it cannot yet be determined to | what extent the State's largely voluntary approach is having in controlling non-point source pollution. |
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The states should have an adequate period of time to fully determine the efficacy of their existing nonpoint source control programs. Only after such time should federal mandates be developed and then only for those elements of a state's program that are not making adequate progress toward meeting a state's water quality standards.

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| 2. Language in some proposed federal legislation calls for the states to adequately treat all of their nonpoint source concerns such that runoff from these areas would meet state water quality standards in some arbitrary period of time. Due to vast differences in the types of nonpoint source problems faced by individual states, any such artificial deadline may be adequate for one state yet impos- | sible to meet for its neighbor. Secondly, in the west, where the majority of the nonpoint source concerns identified to date are associated with runoff from vast areas of mountains, rangelands, irrigated farmlands, extensive road networks et cetera, the sheer magnitude of the problem will preclude attainment of standards unless exorbitant commitments of limited financial resources are dedicated to these | problems. Finally, even the expenditure of such vast resources may not have immediate benefit in the arid portions of the west because establishment and/or reestablishment of adequate groundcover to prevent overland flows of sediment-laden waters is dependent upon adequate precipitation, which is never assured. |
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In every instance in which a deadline is established requiring the attainment of water quality standards by nonpoint sources of pollution, remove the deadline and substitute the following phrase:

... "as rapidly as possible based on the ecological potential of the area as determined by the state."

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| 3. Over one-third of New Mexico's lands are owned by the federal government where most nonpoint source pollution in the State occurs. The majority of New Mexico's Category I watersheds as determined in the Clean Water Action Plan (CWAP) Unified Watershed Assessment (UWA) are located within federal land boundaries. These are the watersheds where new CWA § 319 monies | under the CWAP will be directed. Most of New Mexico's high quality coldwater fisheries are contained within these federal lands. The USFS and the Bureau of Land Management have been designated by the WQCC as management agencies for water quality protection within the context of the New Mexico Water Quality Management Plan and the State's Nonpoint Source Management Program. | It is difficult, however, for these federal agencies to apply for § 319 funding due to the EPA requirement for a 40% <u>non-federal</u> match for any § 319 funds. This situation discourages the federal agencies from applying for § 319 grant funds for important water quality improvement projects. |
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The EPA language requiring a "non-federal" match of 40% for all CWA § 319 grant awards should be changed so as to allow for the utilization of federal match dollars. The federal land management agencies and other agencies with federal land management authorization should be directed and funded to immediately commence meaningful restoration treatments on the watersheds and riparian areas. This should include but not be limited to reduction of tree densities and forest litter removal, removal of invasive non-native riparian vegetation and reduction of invaded grasslands by woodland trees and woody vegetation.

Indian Tribes

The funding set-asides for Indian tribes in the CWA puts tribes in direct competi-	tion with the states for the limited available federal funds. The funding provided	to tribes is inadequate to develop or implement effective water quality programs.
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The United States Congress should provide sufficient dedicated funds to Indian tribes so that they can develop and implement an effective water quality management program. These funds should be in addition to, not in place of, monies allocated to the states.

Funding

1. Technical information in many areas is essential to any state water pollution control program. These areas include sampling and monitoring technology,	containment and remediation technology, risk assessment, and standards development. Such information is of wide applicability and would be useful to all states.	It is more desirable for federal agencies to assemble and disseminate this information than for states to utilize their limited resources on such projects.
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The United States Congress should provide adequate funding to federal and state agencies including universities and other publicly-funded institutes to foster and support basic ecological, hydrologic, medical, public health, and other research efforts relevant to water quality protection and to support technical assistance and technology transfer to the states.

2. The CWA requires all municipal wastewater treatment plants to meet secondary treatment standards as defined by federal regulations. Over the past two decades, an enormous investment of public funds has been made by federal, state and local governments to construct a national wastewater treatment infrastructure	that would meet this goal. However, once constructed, the effectiveness and longevity of this wastewater infrastructure is heavily dependent upon the skill and competence of the operators who maintain it. In fact, the absence of effective operation and maintenance programs has been implicated as the primary cause	of most NPDES permit noncompliance nationwide as well as in New Mexico. Thus, the lack of good operation and maintenance at treatment facilities both jeopardizes the attainment of secondary treatment and reduces the benefit of the huge expenditure of public funds made to achieve this goal.
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The United States Congress should provide additional dedicated funding to state-operated programs which address the operation and maintenance of wastewater treatment facilities in order to prevent water pollution and National Pollutant Discharge Elimination System permit noncompliance.

3. Section 402 of the CWA states NPDES permits "...are for fixed terms not exceeding five years." Title 40 Section 122.6 of the <i>Code of Federal Regulations</i> allows for the administrative continuance of expired permits beyond five	years under specified conditions including but not limited to timely reapplication by the permittee. Permits are often continued due to lack of resources to prepare renewed permits. Currently, approximately 90% of the individual NPDES	permits in New Mexico are five or more years old. Outdated permits may not be protective of current water quality standards adopted by the State and revised once every three years in accordance with Section 303 of the CWA.
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The United States Congress should provide adequate funding to the federal and state agencies charged with administering the NPDES permit program so that the enormous backlog of out-of-date NPDES permits might be promptly reduced and then in the future all permits may be renewed on a timely basis.

Hazardous and Radiological Waste

CWA § 303(c) and its implementing regulations at 40 CFR 131 require states to develop and implement water quality standards with sufficient criteria to protect designated uses. Among the pollut-	ants of ecological and human health concern are natural and manmade or concentrated radioactive compounds. CWA § 502(6) currently recognizes 'radioactive materials' as a 'pollutant'; yet the Atomic	Energy Act (42 U.S.C. 2011 et seq.) exempts certain of these compounds. Consequently, pollutants such as plutonium and enriched uranium are not yet regulated under the NPDES system.
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The Atomic Energy Act should be amended to require the NPDES permit to be the sole regulatory vehicle for any point source discharge of any pollutant to "waters of the United States."

F e d e r a l F a c i l i t i e s

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| 1. Federal agencies have an obligation to protect water quality at their facilities and in their projects and to remediate pollu- | tion that occurs. There are known instances of surface and ground water contamination, sometimes of a very serious | nature, caused by federal facilities in New Mexico and elsewhere. |
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Federal installations and projects should not only be required to comply with all pertinent federal and state laws and regulations but should also be expected to lead in the area of environmental protection by prevention of adverse impacts during construction and operation and by cleanup or reclamation upon discovery of a problem.

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| 2. Federal laws, such as the Comprehensive Environmental Response, Compensation and Liability Act, commonly known as Superfund, place responsibility on federal agencies for investigating and remediating old hazardous waste sites on federal lands. The Department of De- | fense (DoD) has responded positively to this mandate by initiating and continuing work at active defense installations in New Mexico and nationwide. DoD/state Memoranda of Agreement provide funds to states to participate in investigation and cleanup work. Left out of these ef- | forts, however, are formerly used defense sites that are not presently the property of DoD. Several such sites in New Mexico are known or suspected to be contributing to ground water pollution and other environmental problems. |
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The United States Congress should encourage the Department of Defense to aggressively investigate and remediate formerly used defense sites, to include states as partners, and to use existing mechanisms such as DoD/state Memoranda of Agreement to provide monies to states for required site-specific tasks such as review of work for compliance with state environmental laws.

G r o u n d W a t e r Q u a l i t y M a n a g e m e n t

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| 1. Prevention of ground water pollution is always more protective of public health and environmental quality as well as being more cost-effective than trying to cleanup an aquifer once it has become contaminated. Cleanup is always expensive, often costing hundreds of thousands | or even millions of dollars, and often taking decades to accomplish. Cleanup to natural background levels is often impossible at any price. In addition, the health effects of chronic exposure to even low-level contamination are poorly quantified but may be significant. Therefore, | it is a more prudent use of public funds to prevent exposure of the nation's citizens to contaminated water supplies than to restore the ground water to its original condition. |
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The primary focus of federal ground water pollution prevention efforts should be to support state pollution control programs and initiatives.

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| 2. Ground water protection is, and should remain, actively managed and implemented at the state and local levels. New Mexico and other states are taking | the lead in developing and implementing ground water monitoring, protection, remediation and management programs suited to their particular needs. Some of | these programs have been in existence for decades and should be used as models for other states that are developing new ground water protection programs. |
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Any federal legislation dedicated to ground water protection should include a statement of a general national goal and then explicitly recognize the primary role of the states and local governments in all facets of ground water protection.

D e l e g a t i o n o f S u p e r f u n d t o S t a t e s

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| New Mexico currently does not have a State Superfund program and relies on the federal Superfund law to address abandoned or uncontrolled hazardous waste sites in the state. In the Superfund reauthorization debates taking place in Congress, New Mexico supports the delegation of the federal Superfund program to the states. However, delegation | should allow states to retain all state rights, especially state applicable standards, and to have the flexibility to apply the Superfund program in a manner that meets specific needs of the state. This is especially critical in arid western states where policies and procedures developed for eastern states are not applicable. Additionally, inhabitants of sparsely popu- | lated areas of western states deserve equal protection from potential health or environmental problems. Yet, the federal Hazard Ranking System assigns lower priority to these factors and makes Superfund difficult to apply to sites in western states like New Mexico. |
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The United States Congress should provide a mechanism whereby administration of Superfund is delegated to states to better address state and local water quality problems associated with abandoned or uncontrolled hazardous waste sites.

D r i n k i n g W a t e r S t a n d a r d s

The EPA has promulgated a new national drinking water standard for arsenic. This more stringent drinking water standard	will be extremely costly to the Citizens of New Mexico. Capital costs will likely range from \$250 million to over \$500	million. Annual operating costs could range between 2 – 5% of capital costs.
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The United States Congress should delay implementation of the new arsenic drinking water standard until EPA can demonstrate cost-effective technology for the removal of arsenic, and provide sufficient funding to the states for implementation.

RECOMMENDATIONS TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge Elimination System Permit Program

1. The CWA clearly states "*it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited.*" EPA relies heavily on biomonitoring tests performed on the effluent from wastewater treatment plants to determine attainment of that policy. The fish species that is normally tested, *Pimephales promelas* (Fathead minnow), is a warmwater species. Because coldwater species are generally more sensitive to pollutants, biomonitoring tests based only on a warmwater species may not be protective of coldwater ecosystems.

*Coldwater species should be developed for biomonitoring discharges to coldwater fisheries with the same degree of accuracy as those currently performed with the Fathead minnow. Rainbow trout (*Oncorhynchus mykiss*) is readily available and culture techniques for it have been well developed. Although non-native, it is widespread and may prove to be a suitable surrogate for coldwater species, including native fishes. Rainbow trout are currently readily available from six state hatcheries for biomonitor-reporting purposes. Other widespread species, such as the Longnose Dace (northern part of the state) and the Speckled Dace (southern part of the state) (*Rhinichthys cataractae* and *R. osculus*, respectively) should also be considered. Coldwater species should be used for biomonitoring tests when discharges are to an aquatic system with an existing coldwater fisheries use.*

P r e t r e a t m e n t

With the above-stated national policy of the CWA in mind, EPA has implemented its pretreatment program through the NPDES permit program. There are two ways that EPA implements the pretreatment program: 1) through regulations requiring certain municipalities to administer and enforce their own EPA-approved pretreatment programs; and 2) through EPA enforcement against industrial dischargers which discharge into publicly owned treatment works that are not regulated under approved pretreatment programs.

In New Mexico, five municipalities are currently required to fully develop pretreatment programs. The EPA has conducted a detailed pretreatment inspection of all pretreatment program municipalities in New Mexico once each year.

Some local governments remain reluctant to enforce pretreatment requirements effectively in cases where industrial sites are available in other cities without pretreatment programs. Other industries settle or relocate in areas served by private wastewater treatment plants not subject to the pretreatment regulations, since the treatment plants are not "Publicly Owned Treatment Plants."

EPA should continue to place greater emphasis on its pretreatment program, to ensure pretreatment programs are required where necessary regardless of the size or ownership of the plant, and to take adequate enforcement action to meet the federal Clean Water Act's policy of no discharge of toxic substances in toxic amounts into the environment. The Agency should apply its regulations evenly so that no municipality is granted an unintended economic advantage over another municipality with a pretreatment program.

S l u d g e M a n a g e m e n t

Beginning in 1987, EPA has incorporated by reference the sludge regulation requirements of 40 CFR 257 or, as appropriate, 40 CFR 503 into NPDES permits issued in New Mexico. These regulations broadly cover areas such as pathogen control, safety, ground water protection, endangered species, floodplains, and surface water. New Mexico has had an effective ground water protection regulatory program in place since 1977. Because the State ground water regulations do not address certain areas such as pathogen control, the federal and State ground water protection programs are not completely equivalent. Thus, compliance with one program does not ensure compliance with the other. EPA's advance into the area of ground water protection has resulted in a duality of regulations for sludge disposal with regard to ground water protection.

EPA should ensure that federal sludge regulations and the administration of federal sludge programs do not result in dual regulation or undermine existing state programs. The regulations developed should focus primarily on public health protection and on surface and ground water protection.

Indian Tribes

The 1987 Amendments to the CWA and the 1986 Amendments to the SDWA allow EPA to treat Indian tribes in the same manner as states. The tribes have indicated a great interest in receiving technical assistance from EPA, especially for water quality standards development and implementation.

The CWA also provides that EPA

shall provide a "...*mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian Tribes located on common bodies of water.*" . In some cases, for example arsenic in the Middle Rio Grande Basin of New Mexico, tribal water quality standards have

been adopted that are far more stringent than existing background conditions, by three orders of magnitude, and are thus unattainable. The CWA provides that relevant factors include the effects of differing water quality permit requirements on upstream and downstream dischargers and economic impacts.

EPA should, in keeping with its trust responsibility to tribes, work with the tribes to ensure that water quality standards and programs adopted by the tribes are scientifically defensible and technically achievable.

Reporting Criteria

Salt cedar invasion and infestation is one of the significant contributors to water quality impairment in New Mexico. Yet, no water quality impairment code

for sources exist except *hydromodification*, and *removal of riparian vegetation* to classify this threat to the native riparian biome and its associated water qual-

ity. Exotic vegetation invasion and displacement of native riparian vegetation poses a significant threat to maintenance of New Mexico's water quality.

EPA should review and amend the Codes of Designated Uses and Nonpoint Sources of Pollution to:

- 1. Include source codes for Improper Functioning Watersheds, Wildlife Management and Fish Hatchery Operations;***
- 2. Break out Natural Sources from general heading code Other and make it a general heading code with appropriate sub-codes;***
- 3. Place Exotic noxious weeds under the general heading Other; and***
- 4. Disclose omission sources whose failure to perform BMP management responsibilities result in or exacerbate pollution.***

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